

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 8:22-cv-01640-MEMF-KES

Date: May 30, 2023

Title: XINGFEI LUO v. THE PEOPLE OF CALIFORNIA

PRESENT:

THE HONORABLE KAREN E. SCOTT, U.S. MAGISTRATE JUDGE

Jazmin Dorado
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR
PETITIONER:
None Present

ATTORNEYS PRESENT FOR
RESPONDENT:
None Present

PROCEEDINGS (IN CHAMBERS):

**Order DENYING REQUESTS FOR
JUDICIAL NOTICE (Dkt. 25, 20, 23)
AND LIFTING STAY**

On May 19, 2023, Petitioner filed a status report advising that the California Supreme Court denied her exhaustion petition. (Dkt. 26.) The Court therefore lifts the stay. The Court orders Respondent to file a Response to the Petition **by June 30, 2023**.

On May 18, 2023, Petitioner filed a “Supplement to Petition for Writ of Habeas Corpus.” (Dkt. 25.) Discussing July 2021 proceedings, Petitioner contends that “[t]he trial court erred in giving a jury instruction unrelated to what Petitioner was charged for.” (*Id.* at 1.) It is unclear why Petitioner filed this. To the extent she wishes to amend her Petition, she may only do so in compliance with Federal Rule of Civil Procedure 15 and the corresponding local rules.

On April 6, 2023, and April 15, 2023, Petitioner filed judicial notice requests. (Dkt. 20, 23.) In Dkt. 20, Petitioner asks the Court to take judicial notice of two documents from a 2023 state court criminal case. In Dkt. 23, Petitioner asks the Court to take judicial notice of a “citation issued by Newport Beach Police Department” and “Tax returns between 2014 and 2019 of Hanh Le.”

First, the law generally limits merits-based habeas review to the record before the state court that denied the same claims during the exhaustion process. *Cullen v. Pinholster*, 563 U.S. 170, 182 (2011). Second, Dkt. 20 seems to relate to proceedings in a new prosecution of Petitioner in

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2023 for different alleged restraining order violations. These 2023 proceedings do not pertain to the pending Petition. Third, the Court would not take judicial notice of tax returns. David Lacayo v. Seterus, Inc., et al., No. 2:17-cv-02783-AB-JEM (Dkt. 41 at 10 n.4), 2018 U.S. Dist. LEXIS 116756, at *14 n.4, 2018 WL 3326660, at *5 n.4 (C.D. Cal. Apr. 30, 2018) (“tax returns are not proper subjects of judicial notice.”)

For all these reasons, the Court **DENIES** Petitioner’s judicial notice requests, without prejudice to her renewing them with a better explanation of the matters’: (1) appropriateness for judicial notice; (2) factual relevance to her Petition; and (3) appropriateness for this Court’s consideration despite Pinholster.

Initials of Deputy Clerk JD